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PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS AT NATIONAL, REGIONAL AND INTERNATIONAL LEVEL

PREVENTION OF DISCRIMINATION AND PROTECTION OF CHILDREN: HUMAN RIGHTS AND YOUTH

Situation of children deprived of their liberty

Note by the Secretary-General prepared pursuant to Sub-Commission resolution 1994/9

Addendum

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INTRODUCTION

1. The present note contains additional replies received from Governments after the publication of the note by the Secretary-General on the subject (E/CN.4/Sub.2/1995/30).

2. As at 1 August 1995, replies had been received from the Governments of Cyprus, Germany, Guinea, San Marino and Turkey.

INFORMATION RECEIVED FROM GOVERNMENTS

Cyprus

[24 July 1995]
[Original: English]

Age of criminal responsibility

3. According to section 14 of the Criminal Code (cap. 154) of the Laws of Cyprus, a person under the age of 7 years is not criminally responsible for any act or omission. A person between the age of 7 and 12 years is not criminally responsible for an act or omission, unless it is proved that at the time of the act or omission he had the capacity to know that he ought not to do the act or to make the omission. Furthermore, under the same section, a male person under the age of 12 years is presumed to be incapable of having carnal knowledge.

Different treatment of children offenders

4. The Juvenile Offenders Law (cap. 157) deals with child offenders (under 14 and not over 16 years). It treats them differently from adult offenders taking into account their tender age and their welfare and rehabilitation. Under this Law, cases against juvenile offenders are heard by a juvenile court sitting in a different building or different room from that in which the ordinary sittings of the District Court are held, or on different days or at different times from such sittings, and privacy is fully respected at all stages of the proceedings. Also, the court must explain in simple language to the child or young person brought before it the substance of the alleged offence. Furthermore, the court invariably obtains information as to the child's or young person's general conduct, home surroundings, school record and medical history. With the aim of emphasizing prevention rather than punishment, a new procedure was adopted in 1978 for dealing with juvenile delinquents in cooperation with the police and the Attorney-General, so as to avoid penal measures for persons under 16 years of age. The essence of the current procedure is to treat such cases as children needing help rather than deal with them as young offenders. The handling of such cases is usually entrusted to the Welfare Department, the services of which are offered to the family of the child as a whole.

Children deprived of their liberty

5. Special measures are taken when children are deprived of their liberty. Under section 7 of the Juvenile Offenders Law (cap. 157), a court on remanding or committing for trial a minor who is not released on bail shall, where practicable, instead of committing him to prison commit him to custody in a police station. The police have the duty to make arrangements for preventing the association of the minor with adult detainees.

6. When dealing with cases where children and young persons are suspected of having committed an offence, the police make certain that the parents or guardians as well as the divisional police commander are promptly informed. Where the suspect is a pupil, arrest and examination at school is avoided; when such a course is absolutely necessary, it is carried out only with the consent and in the presence of the schoolmaster.

Germany

[18 July 1995]
[Original: English]

7. The Permanent Mission of Germany to the United Nations Office at Geneva referred to the initial report of Germany presented to the Committee on the Rights of the Child in accordance with article 44 of the Convention on the Rights of the Child (CRC/C/11/Add.5) which contains part of the information requested. The relevant information is reproduced below.

Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

8. The prohibition stipulated in article 37 (a), sentence 1, of the United Nations Convention on the Rights of the Child, namely that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment, corresponds to the guarantee laid down as a basic human right in article 7 of the International Covenant on Civil and Political Rights. It likewise corresponds to the guarantees laid down in the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 and in the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 26 November 1987. Article 37 (a), sentence 2, of the present Convention repeats the prohibition of imposition of capital punishment for offences committed by persons under 18 years of age; this corresponds to the guarantee laid down in article 6, paragraph 5, of the Covenant. In its guarantees, the present Convention goes beyond the Covenant in so far as in article 37 (a), sentence 2, provision is also made for prohibiting the imposition of life imprisonment without the possibility of earlier release for offences committed by persons under 18 years of age. The Federal Republic of Germany fulfils these obligations through its system for execution of sentences and execution of sentences passed by youth courts, which is structured according to the rule of law, as well as through the provisions of section 18, subsection 1, of the Youth Courts Act, which limits prison sentences for juvenile offenders to a maximum of 10 years. The Basic Law abolished capital punishment. In addition, Germany has ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights as well as Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty.

The administration of juvenile justice

9. Article 10, paragraph 1, of the Convention obligates the States parties to ensure that juveniles who have infringed penal law are treated in a manner which especially emphasizes socio-educational and rehabilitative aspects. This corresponds to the objectives pursued under the national law of the Federal Republic of Germany through the Youth Courts Act. To achieve the objectives stipulated in paragraph 1 of article 40, paragraph 2 contains a list of pertinent measures. In this list, the Convention places special emphasis on the fact that the basic human rights enjoyed by any person accused of a crime in court must also be respected if a juvenile (a person from the age of 14 up to and including the age of 17) must answer for a crime.

10. Paragraph 2 (a) therefore stresses for juveniles the principle of nulla poena sine lege, which is already guaranteed as a basic human right by article 15, paragraph 1, sentence 1, of the International Covenant on Civil and Political Rights, by article 7, paragraph 1, of the European Convention for the Protection of Human Rights and Fundamental Freedoms and, under German national law, by article 103, paragraph (2), of the Basic Law.

11. Paragraph 2 (b) then proceeds to list the specific rights of the juvenile, which largely correspond to the specific rights that are already guaranteed for any person accused of a crime, irrespective of his or her age, under the International Covenant on Civil and Political Rights as well as under the European Convention for the Protection of Human Rights and Fundamental Freedoms and are hence already binding on the Federal Republic of Germany.

12. The same applies to the presumption of innocence in favour of the juvenile mentioned in paragraph 2 (b) (i), which corresponds to the provisions of article 14, paragraph 2, of the International Covenant on Civil and Political Rights and of article 6, paragraph 2, of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

13. The right of the juveniles stipulated in paragraph 2 (b) (ii), namely to be informed of the charges against him or her - either directly or through his or her parents or legal guardians - and to have legal or other assistance, is already guaranteed by the provisions of article 14, paragraph 3 (a) and (b), of the International Covenant on Civil and Political Rights (see also art. 6, para. 3 (a) and (c), of the European Convention for the Protection of Human Rights and Fundamental Freedoms). This guarantee does not necessarily imply an obligation to assign legal or other appropriate assistance to a juvenile in a youth court proceeding in each and every case without exception; pursuant to the International Covenant on Civil and Political Rights, legal assistance must be assigned to the accused "in any cases where the interests of justice so require". The Federal Government therefore pointed out, within the framework of a declaration which it submitted at the time the instrument of ratification was deposited, that article 40, paragraph 2 (b), should be applied in such a way that, in the case of minor infringements of the penal law, there shall not in each and every case exist an entitlement to have legal or other assistance in the preparation and presentation of the defence. In cases of the latter kind, it is sufficient as a matter of principle under the provisions of national law (sect. 50, subsect. 1, and sects. 67 and 69 of the Youth Courts Act) if the parents or other persons with parental powers are able to participate in the main proceedings.

14. The recognition in paragraph 2 (b) (iii) of the right of the juvenile to a hearing by a competent and independent court merely serves to underscore the corresponding rights already arising - under national law as well - out of article 14, paragraph 1, of the International Covenant on Civil and Political Rights and article 6, paragraph 1, sentence 1, of the European Convention for the Protection of Human Rights and Fundamental Freedoms; however, in derogation from the aforementioned instruments, paragraph 2 (b) (iii) does not provide for a public hearing, a fact attributable to both the special position of the juvenile offender in a youth court proceeding and consideration of the best interests of the child. The alternative to a court hearing permitted

under the subparagraph, namely a hearing by a competent, independent and impartial authority, is irrelevant in the Federal Republic of Germany in view of the existing legal guarantee of the right of recourse to the courts. In order to avoid unnecessarily burdening the juvenile with a formal criminal proceeding entailing preferment of charges, main proceedings and sentencing, and in order to administer justice in a manner appropriate to the nature of juvenile crime, courts in Germany are increasingly availing themselves of the option of informally handling juvenile crime cases. This means that under certain circumstances the public prosecutor refrains from prosecuting or - likewise under certain circumstances - the judge dismisses the case following preferment of charges (sects. 45 and 47 of the Youth Courts Act).

15. The procedural guarantees under the rule of law which arise out of paragraph 2 (b) (iv) are binding in the Federal Republic of Germany for the simple reason that such guarantees for accused persons of any age already arise out of article 14, paragraph 3 (e) and (g), of the International Covenant on Civil and Political Rights and, to a certain extent, out of article 6, paragraph 3 (d), of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

16. Paragraph 2 (b) (v) - essentially concurring with article 14, paragraph 5, of the International Covenant on Civil and Political Rights - contains the guarantee for the person convicted of a crime to have the decision of his case reviewed by a higher judicial body. Since the Federal Republic of Germany does not unconditionally accept this principle, it already made a reservation to this effect at the time the instrument of ratification of the International Covenant on Civil and Political Rights was deposited; that reservation, which concerned article 14, paragraph 5, of the Covenant, stipulated that "in the case of minor infringement of the penal law, there shall not in each and every case exist an obligation to have a sentence not calling for imprisonment reviewed by a 'higher competent authority or judicial body'". The Federal Republic of Germany made a similar reservation at the time the instrument of ratification of the present Convention was deposited.

17. In respect of the guarantee contained in paragraph 2 (b) (vi), providing for the assistance of an interpreter if circumstances so require, reference is made to the parallel guarantees in article 14, paragraph (3) (f), of the International Covenant on Civil and Political Rights and in article 6, paragraph 3 (e), of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

18. Concerning the entitlement laid down in paragraph 2 (b) (vii), namely the juvenile's entitlement to respect for his or her privacy, reference is made in respect of court proceedings to the corresponding (parallel) guarantees in article 14, paragraph 1, sentence 3, of the International Covenant on Civil and Political Freedoms and in article 6, paragraph 1, sentence 2, of the European Convention for the Protection of Human Rights and Fundamental Freedoms. German national law furthermore takes due account of the requirement to protect the juvenile's privacy in criminal proceedings especially through section 48 of the Youth Courts Act, which stipulates that the main proceedings of a juvenile charged with an offence shall be held in camera. This does not apply if adults or adolescents (persons from the age of 18 up to and including the age of 20) are concurrently charged with an

offence; in such cases, however, the public may be excluded "if this is advisable in the interest of the re-education of the juvenile who has been charged" (sect. 48, subsect. 3, sentence 2, of the Youth Courts Act).

19. Pursuant to article 40, paragraph 3, of the Convention, the States parties are called upon to establish a minimum age below which children shall be presumed not to have the capacity to infringe the penal law. This requirement is met under German law by section 19 of the Criminal Code, from which it follows that a child under the age of 14 has no capacity to infringe the penal law.

20. In conformity with article 40, paragraph 4 of the Convention, the Youth Courts Act provides for a wide variety of measures which serve to further the special objectives of the youth court proceedings, namely the re-education and reintegration of the juvenile offender.

Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings

21. Article 37 of the Convention confirms that the general human rights guarantees which are of relevance to criminal proceedings must also be observed in criminal proceedings against juveniles. It does so by repeating those human rights guarantees laid down in the International Covenant on Civil and Political Rights which are of fundamental importance to criminal law and the law of criminal procedure and modifying them to cite the child as the holder of said rights. There is hence no need for a harmonization of legal provisions because the Federal Republic of Germany is also one of the States parties to the aforementioned Covenant. In accordance with article 40 of the Covenant, the Federal Government has submitted to the Human Rights Committee a number of reports concerning the fulfilment of the obligations it assumed under the Covenant. The Federal Government therefore presumes that the Federal Republic of Germany is not assuming any obligations under article 37 of the present Convention which are more extensive than those it assumed upon ratification of the International Covenant on Civil and Political Rights.

22. Article 37 (b), sentence 1, of the Convention repeats specifically for children the guarantees following from article 9, paragraph 1, of the Covenant. Sentence 2 of article 37 (b) goes beyond article 9, paragraph 3, of the Covenant by giving the "child" a right to imprisonment "only as a measure of last resort and for the shortest appropriate period of time". It is clear that the provision is not to be interpreted to mean that juvenile prison sentences may only be of brief absolute duration; rather, in view of the re-educative purpose of the penalty, imprisonment should be imposed for the shortest period of time appropriate under the given circumstances. It must hence be ensured that the re-educative purpose of the penalty is served as comprehensively as possible. Section 18 of the Youth Courts Act meets these requirements.

23. Article 37 (c), sentence 1, of the Convention confirms the human rights guarantees already arising for every person out of article 10, paragraph 1, and paragraph 3, sentence 2, of the International Covenant on Civil and Political Rights and, under German national law, out of article (1) of the Basic Law as well. The Federal Government emphatically advocates the

maintenance of contact between the juvenile and his or her family which is guaranteed in article 37 (c), sentence 2, "save in exceptional circumstances". The possibility provided for in article 37 (c), sentence 2, namely that juveniles deprived of liberty need not be separated from adult offenders if it is considered in the child's best interest to refrain from undertaking such reparation, is of virtually no practical relevance in the Federal Republic of Germany.

24. A number of the rights of the "child" recognized in article 37 (d) of the Convention already arise - and are hence binding under national law - out of article 9, paragraph 4, of the International Covenant on Civil and Political Rights. The right to prompt access to appropriate assistance is already essentially ensured under article 14, paragraph 3, of the International Covenant on Civil and Political Rights, which guarantees everyone charged with a criminal offence the opportunity to communicate with counsel (subpara. (b)) and to have free legal counsel (subpara. (d)). Article 37 (d) of the present Convention cannot be interpreted to mean that a juvenile must be assigned legal counsel in each and every criminal proceeding. Rather, it is left to the discretion of the States parties to decide whether the juvenile offender is to be assigned legal counsel or "other appropriate assistance". The "right to prompt access to legal and other appropriate assistance" is, for instance, also observed if the juvenile - or his or her parents or other persons having the right of care and custody - retain an attorney of their own choosing as counsel for the defence; this option is not subject to any restrictions in the Federal Republic of Germany.

25. In addition to the information contained in the above-mentioned report, the Permanent Mission would like to draw attention to the following: under German criminal law special rules are applicable in proceedings initiated against minors (aged 14 to 18 years) and adolescents (aged 18 to 21 years) with regard to procedural matters and the execution of sentences. Detention of minors and adolescents, whether in the execution of a sentence or pending trial, is carried out by specialized staff in specialized detention facilities. Any such sentence aims primarily at resocializing the detainee. To this end a series of measures to further education such as vocational training is offered. Furthermore, social contacts with relatives of the detainees and other persons outside the detention facilities are encouraged so as to facilitate reintegration of the detainees after their release.

Guinea

[6 July 1995]
[Original: French]

26. In the Republic of Guinea, the legal basis for any criminal proceeding is defined by article 9 of the Fundamental Law promulgated by Decree No. 250/PRG/SGG/90 of 31 December 1990, according to which: "No one may be arrested, detained or convicted except on grounds and in accordance with the procedures established by law. Everyone has the imprescriptible right to apply to a court of law in order to assert his rights against the State and its agents. Everyone is entitled to a fair and impartial trial, in which his right to defend himself is guaranteed. The law lays down the necessary penalties in proportion to the offences which can justify them."

27. The Guinean Criminal Code determines the length of the penalty and the Guinean Code of Criminal Procedure defines the procedure to be followed.

28. With regard to the situation of children deprived of their liberty and the application of the provisions and rules designed to protect them, the latter cover children in conflict with the law as well as the administration of criminal justice for minors. The Guinean Penal Code, which was introduced in June 1975, deals with the issue in Chapter III concerning absence of criminal responsibility and minority (arts. 58 to 62). It distinguishes three categories of minors in criminal matters: minors under 13 years of age; minors aged between 13 and 18; minors over 13 and under 16 years of age.

29. The guiding principle on the subject is as follows:

(a) In the case of a minor under the age of 13 charged with an offence, only measures of guardianship, supervision, reform and assistance may be ordered as appropriate, by the President of the court in chambers. The child is entrusted either to his parents or guardians, to a trustworthy person or else to a charitable institution. If the charges against the child are not sufficient, or the acts of which he is accused do not constitute an offence, the examining magistrate dismisses the charges. If, on the other hand, the child is found to be the author of an act qualified as an offence, the magistrate carries out an investigation into his character and past record, the material and moral situation of his family and measures likely to bring about an improvement in his conduct. Once the investigation is completed, the examining magistrate refers the minor to the court, if appropriate (art. 58). According to article 59:

> "The Court comes to a decision in chambers after having heard the child, witnesses, parents, guardian or person having custody as well as the government procurator and the defence counsel appointed. If the charge is established, the judge takes one of the following steps:
>
> He returns the child to his family; or
>
> He places the child either in the custody of a trustworthy person, or in a charitable institution, or in an appropriate rehabilitation centre until he reaches the age of majority".

It may be said that this category of minors is covered by absolute exemption from criminal responsibility.

(b) With regard to minors aged between 13 and 18 years, article 60 provides that: "Offences carrying a prison sentence committed by minors between the age of 13 and 18 are referred to correctional courts, following a preliminary investigation requested by the government procurator's department. The examining magistrate may adopt the same interim measures for minors under 13 years of age." Under article 61, if a minor aged between 13 and 18 is charged with an offence:

> "1. Where it is decided that he acted without due discernment, he will be acquitted of the charges and, depending on the circumstances, handed over either to his parents, or to a charitable institution or person, or

else to an appropriate rehabilitation centre. He will be kept and brought up there for the number of years specified in the sentence, but not beyond the time when he reaches the age of 21.

2. Where it is decided that he acted with due discernment, the penalty imposed shall be no more than half of that to which he would be liable if he were 18 years of age".

(c) According to article 62, a minor over 13 and under 16 years old charged with a crime is tried by the correctional courts. Where it is decided that he acted with due discernment, the following penalties shall be applied: a 10-year prison sentence where the death penalty or hard labour for life was incurred; a 5-year prison sentence where long-term hard labour, detention or rigorous imprisonment was incurred; imprisonment for a period of 1 to 5 years where loss of civil rights was incurred. In all cases he may be banned for a minimum of 5 and a maximum of 10 years from places specified in an order issued by the Minister in charge of services of the interior, currently the Minister of the Interior and Security. In view of the foregoing, we may affirm that the latter two categories of minors, namely, those between the ages of 13 and 18 and over 13 and under 16 respectively, are covered by qualified exemption from responsibility.

Treatment of children deprived of their liberty

30. When a minor is sentenced to deprivation of freedom, the sentence is served in a local correctional prison. The child ought to be kept separate from adults, but in practice, because there are no specialized detention facilities, a convicted minor lives in the same circumstances as adults. In Guinea, at the civil prison in the capital, one section is set aside for children and women, but within the same enclosure.

31. It must also be said that children's homes and re-education and social rehabilitation centres are few and far between or non-existent. There is a lack of any centre that would enable appropriate action to be taken to avoid having to detain all children under the same conditions in every specific case.

Supervisory machinery set up in pursuance of the rules designed to ensure the protection of children deprived of their liberty, democracy and respect for human rights

32. With the aim of protecting children deprived of their liberty, a children's court has been appointed for each court of first instance under ordinance No. 109/PRG/86 of 5 July 1986, which authorizes the establishment of one minor's court for two magistrates' courts in Conakry, making a total of eight children's courts. According to article 34 of the above-mentioned ordinance, a children's court comprises:

(a) A president;

(b) Two judges appointed from an annual list drawn up by the Ministry of Justice at the proposal of the Department of Social Affairs;

(c) A children's judge responsible for the investigation of all cases brought before the court.

33. The children's court is assisted by a registry, including a chief registrar and, if the needs of the service so require, other registrars. In the whole country there are eight courts, which unfortunately do not have enough resources to fulfil their obligations effectively. Support is thus needed in this field, in order to ensure effective respect for the rights of the child in Guinea.

34. In order to ensure compliance with the rules for the protection of children,

(a) The draft initial report of the Republic of Guinea has been drawn up and submitted for amendment;

(b) The Convention on the Rights of the Child has been ratified and promulgated, on 10 April 1990;

(c) Decree D/95/010/PRG/SGG of 16 January 1995 establishing the Guinean Committee for the Protection and Defence of the Rights of the Child has been signed.

35. The Government's political will has been manifested through the promotion or official recognition of NGOs of a legal nature concerned with the defence of human rights in general and those of the child in particular. The following points should also be mentioned:

(a) The renewed recognition of the status of the legal profession in Guinea is an event of some importance, the assizes that have been held in Guinea for the last four months being an eloquent illustration of the importance of lawyers in a State governed by the rule of law;

(b) The establishment of all democratic institutions, such as:

(i) The fundamental law;

(ii) The Supreme Court;

(iii) The National Communication Council;

(iv) The Council of the Senior Magistracy;

(v) The organization of presidential elections on 19 December 1994;

(vi) The establishment of a full-scale multiparty system;

(vii) The elections to the National Assembly, which took place on 11 June 1995.

36. If further progress is to be made along these lines, it is essential that the Government and civil society should be given support in carrying out projects for open re-education centres at which young people could learn trades and thus improve their lives.

Comments

37. Guinea notes that the preliminary inquiry aspect is not covered in Sub-Commission resolution 1994/9.

38. However, at police and gendarmerie stations and other similar institutions, consideration should be given to having some kind of supervision to prevent abuse and ill-treatment of children detained in custody.

39. In prisons, units independent of the prison supervisory administration or the judicial inspection services ought also to be inspected for periodic assessments at the national or even international level. This would make it possible to formulate or adjust policies with regard to the protection of children deprived of their liberty.

Suggestions

40. To permit effective application of the different legal instruments on human rights, and in particular resolution 1994/9 on the situation of children deprived of their liberty, it would be desirable to:

(a) Invite States parties which have not yet done so to set up a department of supervised education or a department for judicial protection of young people in the Ministry of Justice;

(b) Invite States to increase their budgets for the social sector in order to encourage the establishment of re-education centres and strengthen international cooperation;

(c) Recommend studies and research in the fields covered by the resolutions mentioned above;

(d) Recommend the appointment of a commission or one commissioner per State party to the Convention on the Rights of the Child to be responsible for the rights of the child;

(e) Train lawyers, paralegal staff and judges responsible in this area;

(f) Propose a system for clearing the judicial records of minors deprived of their liberty after their release;

(g) Send the documentation on all the international legal instruments relating to women and children to the Ministry for the Advancement of Women and for Children.

41. All efforts will be in vain if projects are not undertaken to establish adequate infrastructure so that adults can be kept separate from children deprived of their liberty, since otherwise the latter will be liable to offend again and the chances of rehabilitation will be minimal.

San Marino

[10 July 1995]
[Original: English]

42. As regards minors' imputability, the San Marino Penal Code sets forth that "Any person who has not attained the age of 18 is not chargeable. In case of a minor who has reached the age of 12 but is still under 18, the judge, after having established his/her mental competence, inflicts the punishment with a reduction from one to two degrees".

43. The San Marino legal system complies with article 40 of the Convention on the Rights of the Child. Therefore, if a minor is found guilty, San Marino applies the provisions laid down in that article.

Turkey

[7 July 1995]
[Original: English]

44. Law No. 2253 on the "Organization and Procedures for Proceedings of Juvenile Courts" regulates the procedures concerning the treatment of juvenile delinquents.

45. Article 11 of the above-mentioned Law states that, "A juvenile delinquent, who is below the age of 11 at the time of the commission of the crime, cannot be prosecuted or convicted. If the crime normally carries a sentence of imprisonment longer than one year or heavy punishment, the delinquent shall be subject to the measures enumerated in article 10 of the present Law. These measures may not be applied to those delinquents below the age of 11 if the parents or guardians or caretakers take adequate steps for their fostering."

46. In accordance with article 10, "juvenile delinquents who cannot be prosecuted or convicted shall be referred to:

- the parents, legal guardians or any relatives who take the responsibility of care therefor; or,
- foster parents; or,
- special institutions for child care and protection; or,
- state enterprises or skilled workmen or craftsmen that can offer employment opportunities; or,
- rehabilitation centers, state or private hospitals offering special education to children whom so require."

47. Before the decision for conviction is taken, an investigation is conducted about the family, social conditions, upbringing and educational backgrounds of the juvenile delinquent between the ages of 11 and 15. The investigation is carried out by social workers, psychologists and psychiatrists employed by juvenile courts (art. 20). If this investigation does not deem punishment necessary, the juvenile delinquent is subjected to the provisions of article 10.

48. It is stated in article 19 that "... without hampering the implementation of measures enumerated in article 10, during prosecution or trial, no decision for arrest can be taken for juveniles, who have committed crimes which require a minimum of three years imprisonment".

49. Article 36 states that "Juvenile delinquents who are between the ages of 11 and 15 at the time of the commission of the crime and those who are below the age of 18 at the time of the decision for punishment are sent to detention centres".

50. In accordance with article 25 of the above-mentioned Law, trials of juvenile delinquents are held in camera. Their lawyers, parents, legal guardians and social workers, psychologists and psychiatrists employed by the juvenile courts may be permitted to be present in the courtroom.

51. A cooperation protocol was signed between the Directorate General of Security and the Directorate General of Social Services and Child Protection in 1994, in order to conduct activities aimed at the prevention of juvenile delinquency and re-establishment of relations between runaway as well as abandoned children and their families. Social workers are appointed in the Child Protection Departments affiliated with the police headquarters in the provinces of Adana, Ankara, Bursa, Gaziantep, Istanbul and Izmir.